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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,220	07/12/2001	Jurgen Dannenmaier	GAMBRO-254	8402

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MENON, KRISHNAN S

[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

1723

DATE MAILED: 04/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/889,220	DANNENMAIER ET AL. <i>[Signature]</i>
	Examiner Krishnan S Menon	Art Unit 1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 February 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 13-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 13-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

Claims 13-25 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-16, 19-22 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Oscarsson (US 4,341,005).

For claims 13-16 and 19-21, Oscarsson (005) discloses a method for producing a filter comprising a hollow fiber bundle using half shells with fibers laid out in parallel arrangement in a tubular housing formed of half shells sealed together, the tubular housing of circular or rectangular cross section, covering the ends of the fiber (col 3: 22-25), potting the ends of the bundle (see col 1 lines 20-28), and then cutting the ends to have the tube core open at the ends for fluid passage through the tubes (Fig 1-3, col 3 line 60 – col 4 line 3). The two half shells can be clamped together before sealing. The fiber bundle is potted in the housing (col 3:27-31). Oscarsson (005) teaches that the half shells could be sealed with the potting after taking them out of the rotary winding wheel, or they could be sealed before taking out of the rotary winding wheel (col 2: 53-63, and col 4: 1-3). The potting completes the closing of the housing as in claim 13 (see fig 1, col 1 lines 20-28, and col 4 lines 5-10).

Claims 22 and 25 are product claims. Oscarsson teaches a tubular filter having a bundle of hollow fibers disposed inside, the tubular housing having two half-shells, potting compound connecting together the hollow fibers in the bundle and with the tubular housing and the first and

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second halves of the housing together as in claim 22 (figures, col 2 line 54-col 4 line 14). The two half shells are clamped together as in claim 25 (fig 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17,18,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oscarsson (005) in view of EP (0 200 158 A2).

Oscarsson (005) discloses the filter in claim 22 and the method of making the filters in claim 13 as discussed above. The instant claims add further limitations as follows: the method of making the filter in which two halves of the tubular housing as being flexibly connected as in claims 17, with a film hinge as in claims 18, and the filter with the two halves flexibly connected as in claim 23, with the film hinge as in claim 24. Oscarsson fails to teach these limitations. EP (158) teaches (fig 9 – 11, 14-16) a housing design with longitudinally split portions having “film” hinges. It would be

obvious to one of ordinary skill in the art at the time of invention to have two halves of a housing hinged together as taught by EP (158) with the hinge being a thin walled portion integral with the two halves to form a film hinge, for quick and improved sealing of Oscarsson's housing.

### ***Response to Arguments***

Applicant's arguments re claim 13: The additional cutting step in the Oscarsson ref is irrelevant, since the claim language is open.

Arguments regarding claims 13-16, 19-22 and 25 that the fibers are cut and dismantled from the winding wheel only after potting, whereas the Oscarsson ref does the potting after cutting and removing from the winding wheel: Oscarsson teaches potting before cutting as recited in the rejection. It may please be noted that "a reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. The question whether a reference "teaches away" from the invention is inapplicable to an anticipation analysis." *Celeritas Technologies Ltd. v. Rockwell International Corp.*, 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998).

The response stated above is also true for the arguments regarding Oscarsson's teaching of sealing half-shells together before taking out of the winding wheel with potting.

Arguments re the 103 rejections: the secondary reference, EP-0200 158 A2, was used only for showing the split shells with hinges for the flexibly connected half-shells. Arguments about potting aperture 53 is irrelevant, it is not claimed. Regarding EP-158, the applicant is in agreement about the figures 14-16 show housing split with a film-joint and the split pieces can swing about each-other at the joint. This type of joint could be provided to the halves of the housing of Oscarsson for convenience in handling and reduced sealing requirement. Regarding the argument that no reference is made in EP-158 on the manufacturing methods of Oscarsson for motivation,

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Oscarsson already provides the manufacturing methods, and EP-158 is used only to show the joint of the halves of the housing.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 703-305-5999. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Krishnan Menon  
Patent Examiner  
March 26, 2003

*Joseph Dodge*  
JOSEPH DODGE  
PRIMARY EXAMINER